

## REMARKS

### 1. Claim Amendments

Applicant has amended claims 1, 4, 6-9, 14-17, and 22-25 to better claim the invention and added new claims 30-33 to further claim the invention. Accordingly, claims 1, 4, 6-9, 14-17, 22-25 and 30-33 are pending in the present patent application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

### 2. Claim Rejections – 35 U.S.C. §112

Claims 1, 4, 6-9, 14-17 and 22-25 stand rejected under 35 U.S.C. §112, second paragraph (a) as being indefinite for failing to particularly point out and distinctively claim the subject matter which Applicant regards as the invention. In response, Applicant has amended certain claims such as claim 1 by deleting the element “*generating a state vector corresponding to the vocoder frames.*”

### 3. Claim Rejections – 35 U.S.C. §103

Claims 1, 4, 6-9, 14-17, 22-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,233,550 issued to Gersho et al. (hereinafter “Gersho”) in view of U.S. Patent No. 6,691,092 issued to Udaya Bhaskar et al. (hereinafter “Udaya”). Before addressing this rejection in detail, it should be noted that the Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. *MPEP 2142*. To establish *prima facie* case of obviousness, certain criteria must be met. *First*, the prior art reference or references when combined must teach or suggest all the claim elements. *Second*, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. With the above requirements in mind, Applicant respectfully traverses this rejection per discussion below.

Regarding independent claim 1, it generally directs to a method for controlling discontinuous transmissions. In such method, [i] active, [ii] inactive and [iii] transition vocoder

frames are generated depending on certain conditions. The transition vocoder frames comprise **background noise information** for reasons described from page 6, line 25 through page 7, line 24 of the patent application.

Turning to the cited prior art references, Applicant respectfully submits both Gersho and Udaya fail to teach or suggest transition vocoder frames that comprise background noise information. Regarding Gersho, for every frame Gersho would classify speech associated with that frame as [1] stationary unvoiced, [2] steady-state voiced (harmonic) or [3] transition speech for coding by respective different coders 28, 30 and 32. *Figure 4A & column 13, lines 17-53.* Gersho simply fails to teach or suggest any frame having transition speech that would also have background noise information. Furthermore, Gersho is directed to frame **classification, not frame generation.** For example, Gersho does not teach or suggest active vocoder frames are being generated at a predetermined rate in a transmitter if a generated control signal indicates a first level of speech activity.

Regarding Udaya, the Examiner has cited it for disclosing how a state vector is generated and is incremented. Applicant has deleted this “state vector” element from claim 1 and thus respectfully submits that Udaya has nothing to do with the other pending elements of claim 1.

Based on the above discussion, claim 1 should be non-obvious and patentably distinguishable over the cited prior art references, which fail to teach or suggest all the claim elements.

Regarding independent claim 4, it comprises at least one element that is similar to at least one element of claim 1, which is believed to be patentable. Accordingly, claim 4 should be non-obvious and patentably distinguishable over the cited prior art references for reasons similar to those discussed above regarding claim 1.

Regarding independent claim 6, it comprises at least one element that is similar to at least one element of claim 1, which is believed to be patentable. Accordingly, claim 6 should be non-obvious and patentably distinguishable over the cited prior art references for reasons similar to those discussed above regarding claim 1.

Regarding claim 7, it depends from independent claim 6, which is believed to be patentable, and thus it should also be non-obvious and patentably distinguishable over the cited prior art references. *MPEP 2143.03.*

Regarding independent claim 8, it generally directs to a method for controlling discontinuous transmissions. In such method, [i] active, [ii] inactive and [iii] transition vocoder frames are generated depending on certain conditions. In addition, a state vector is incremented for each generated active or transition frame and is disabled for each inactive vocoder frame.

Turning first to Gersho, it is directed to frame **classification, not frame generation** as previously discussed. For example, Gersho does not teach or suggest active vocoder frames are being generated at a predetermined rate in a transmitter if a generated control signal indicates a first level of speech activity. With respect to Udaya, it simply does not teach or suggest disabling any state vector; never mind teaching or suggesting “*disabling the state vector for each inactive vocoder frame*” as specified in claim 8. *Column 11, line 66 – column 12, line 13.*

Based on the above discussion, claim 8 should be non-obvious and patentably distinguishable over the cited prior art references, which fail to teach or suggest all the claim elements.

Regarding claim 9, it depends from independent claim 8, which is believed to be patentable, and thus it should also be non-obvious and patentably distinguishable over the cited prior art references. *MPEP 2143.03.*

Regarding independent claim 14, it comprises at least one element that is similar to at least one element of claim 1, which is believed to be patentable. Accordingly, claim 14 should be non-obvious and patentably distinguishable over the cited prior art references for reasons similar to those discussed above regarding claim 1.

Regarding claim 15, it depends from independent claim 14, which is believed to be patentable, and thus it should also be non-obvious and patentably distinguishable over the cited prior art references. *MPEP 2143.03.*

Regarding independent claim 16, it comprises at least one element that is similar to at least one element of claim 8, which is believed to be patentable. Accordingly, claim 16 should

be non-obvious and patentably distinguishable over the cited prior art references for reasons similar to those discussed above regarding claim 1.

Regarding claim 17, it depends from independent claim 16, which is believed to be patentable, and thus it should also be non-obvious and patentably distinguishable over the cited prior art references. *MPEP 2143.03.*

Regarding independent claim 22, it comprises at least one element that is similar to at least one element of claim 1, which is believed to be patentable. Accordingly, claim 22 should be non-obvious and patentably distinguishable over the cited prior art references for reasons similar to those discussed above regarding claim 1.

Regarding claim 23, it depends from independent claim 22, which is believed to be patentable, and thus it should also be non-obvious and patentably distinguishable over the cited prior art references. *MPEP 2143.03.*

Regarding independent claim 24, it comprises at least one element that is similar to at least one element of claim 8, which is believed to be patentable. Accordingly, claim 24 should be non-obvious and patentably distinguishable over the cited prior art references for reasons similar to those discussed above regarding claim 1.

Regarding claim 25, it depends from independent claim 24, which is believed to be patentable, and thus it should also be non-obvious and patentably distinguishable over the cited prior art references. *MPEP 2143.03.*

Claims 9, 17 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gersho in view of Udaya and further in view of U.S. Patent No. 6,272,633 issued to Duke et al.

Regarding claims 9 and 17, they respectively depend from independent claims 8 and 16, which are believed to be patentable, and thus they should also be non-obvious and patentably distinguishable over the cited prior art references. *MPEP 2143.03.*

Regarding claim 25, it depends from independent claim 24, which is believed to be patentable, and thus it should also be non-obvious and patentably distinguishable over the cited prior art references. *MPEP 2143.03.*

**CONCLUSION**

Claims 1, 4, 6-9, 14-17, 22-25 and 30-33 are presently standing in this patent application. In view of the foregoing remarks, each and every point raised in the Office Action mailed on January 12, 2006 has been addressed on the basis of the above remarks. Applicant believes all of the claims currently pending in this patent application to be in a condition for allowance. Reconsideration and withdrawal of the rejections are respectfully requested. However, should the Examiner believe that direct contact with Applicant's attorney would advance the prosecution of the application, the Examiner is invited to telephone the undersigned at the number given below.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated March 22, 2007

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